

Message Text

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ACTION AF-06

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FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC 6937

C O N F I D E N T I A L TANANARIVE 0265

E.O. 11652: GDS

TAGS: EINV, ETRD, MA

SUBJECT: COUNTRY ELIGIBILITY FOR GENERALIZED PREFERENCES
UNDER SECS. 502(B)(4), (5), AND (6) OF TITLE VI OF TRADE ACT
OF 1974 - MALAGASY REPUBLIC

REFS: A. STATE 23113; B. STATE 21653

1. IN REPLY PARA FOUR REFTTEL, THERE ARE TWO OUTSTANDING
DISPUTES BETWEEN MALAGASY GOVT AND AMERICAN INVESTORS
INVOLVING U.S. PROPERTY IN MADAGASCAR. FIRST IS 1972 IN-
VOLUNTARY BANKRUPTCY OF AMERICAN-OWNED AGM SLAUGHTERHOUSE
("AGM CASE") WHICH AMERICAN OWNER GOERGE REPPAS HAS
APPEALED TO DEPARTMENT FOR APPLICATION OF HICKENLOOPER
AMENDMENT. IN LETTER JAN 15, 1975 TO REPPAS ON BEHALF
OF THE SECRETARY, HOWEVER, ASSISTANT LEGAL ADVISER
FOR AFRICAN AFFAIRS CHARLES SCHMITZ REPORTS DEPARTMENT'S
CONCLUSION THAT STATUTE CONTAINING THE HICKENLOOPER
AMENDMENT DOES NOT APPLY TO AGM INVOLUNTARY BACKRUPTCY
CASE.

2. SECOND OUTSTANDING DISPUTE BETWEEN MALAGASY GOVT AND
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AMERICAN INVESTORS INVOLVES RECENT GOMR CHARGES AGAINST

TWO AMERICAN-OWNED OIL MARKETING COMPANIES, ESSO AND CALTEX, OF VIOLATION OF MALAGASY REGULATIONS ON REMITTANCE OF FOREIGN EXCHANGE EARNINGS ON PETROLEUM EXPORTS FROM MADAGASCAR (TANANARIVE 0125, 0110 AND PREVIOUS). ALTHOUGH FINAL GOVT DECISION ON CASE HAS YET TO BE HANDED DOWN, CALTEX IN PARTICULAR IS APPREHENSIVE OF RECEIVING FINE EXCEEDING TOTAL VALUE OF ITS ASSETS IN MADAGASCAR, IN WHICH CASE IT MAY APPEAL MALAGASY ACTION TO DEPT AS EQUIVALENT TO EXPROPRIATION WITHOUT COMPENSATION. EMBASSY RECENTLY ADVISED BY DEPT, HOWEVER (REF B), THAT GOMR WOULD APPEAR TO HAVE BEEN WITHIN ITS RIGHTS TO REQUIRE PROMPT REPATRIATION OF ALL FOREIGN EXCHANGE EARNINGS AND THAT "EVEN THOUGH PROSECUTIVE FINES APPEAR VERY LARGE IN RELATION TO OFFENSE IT WOULD NOT APPEAR THAT IN LEVYING FINES GOMR WOULD BE NATIONALIZING OR EXPROPRIATING OIL COMAPNIES' PROPERTY WITHOUT COMPENSATION."
MENDENHALL

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